


Approved: 
STEVEN J. KOCHEVAR
Assistant United States Attorney

Before: THE HONORABLE JUDITH C. McCARTHY
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA : **SEALED COMPLAINT**
:
- v. - : Violations of
: 18 U.S.C. § 701, 26
BRIAN DOWNEY, : U.S.C. § 5861
:
Defendant. : COUNTY OF OFFENSE:
: ROCKLAND
:
: 21 mj 8628
- - - - -X

SOUTHERN DISTRICT OF NEW YORK, ss.:

DANIEL SUDEN, being duly sworn, deposes and says that she is a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("HSI"), and charges as follows:

COUNT ONE
(Possession of Unregistered Firearms)

1. On or about September 2, 2021, in the Southern District of New York, BRIAN DOWNEY, the defendant, knowingly did receive and possess a firearm which was not registered to him in the National Firearms Registration and Transfer Record, to wit, a PA-15 Multi rifle bearing serial number SCD902588, which is a weapon made from a rifle which weapon as modified has an overall length of less than 26 inches and a barrel less than 16 inches in length, and an Esquire shotgun with serial number 22145, which is a weapon made from a shotgun which weapon as modified has an overall length of less than 26 inches and a barrel of less than 18 inches in length.

(Title 26, United States Code, Sections 5845(a)(2) and (a)(4) and 5861(d).)

COUNT TWO
(Possession of Federal Badges, Identification Cards, and other Insignia)

2. On or about September 2, 2021, in the Southern District of New York and elsewhere, BRIAN DOWNEY, the defendant, possessed badges, identification cards, and other insignia, of the design prescribed by the head of a department or agency of the United States for use by officers or employees thereof, or colorable imitations thereof, and was not authorized to possess these badges, identification cards, and other insignia under regulations made pursuant to law, to wit, the defendant possessed federal law enforcement badges and credentials.

(Title 18, United States Code, Section 701.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I have been a Special Agent with HSI 12 years as of October 2021. Prior to my time as a federal agent, I was employed by the Pima County Sheriff's Department in Tucson Arizona for approximately nine years. During my approximately 12 years with HSI, I have been tasked with investigating federal crimes involving the illicit movement of people, merchandise, and contraband into and out of the United States. I have worked on numerous investigations involving narcotics trafficking and other federal felonies, including federal firearms violations, and involving the execution of search warrants.

4. I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents and others, as well as my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

5. Based on my personal involvement in this investigation and my discussions with other law enforcement officers, I have learned that BRIAN DOWNEY, the defendant, lives at a certain

address in the Village of Airmont, New York (the "DOWNEY Residence").

6. On or about September 1, 2021, the Honorable Karen Reily of the Village of Montibello Justice Court issued a search warrant for the DOWNEY Residence, in connection with the suspected possession of firearms and silencers by BRIAN DOWNEY, the defendant, in violation of New York law.

7. On September 2, 2021, law enforcement officers executed the search warrant at the DOWNEY Residence. Upon entering the ground level basement of the DOWNEY residence, law enforcement agents located a room which had numerous firearms on display, including guns hanging from one wall and on a rack located against another wall (the "Gun Room"). The Gun Room also contained firearms parts and tools in plain view. One of the firearms contained in the Gun Room was a PA-15 Multi rifle bearing serial number SCD902588 with a barrel shorter than 16 inches (the "Short-Barrel Rifle"). The rack containing firearms and the Short-Barrel Rifle are shown in the following image, with the Short-Barrel Rifle shown at the very bottom of the rightmost column of firearms:



8. The Short-Barrel Rifle is also shown in the following images:



9. In another room of the DOWNEY Residence, a closet adjacent to the Gun Room, law enforcement officers recovered an Esquire shotgun with serial number 22145, with a barrel less than 18 inches long (the "Sawed-Off Shotgun"). The barrel of the

Sawed-Off Shotgun had been shortened, and law enforcement agents could observe striation markings on the end of the barrel. The Sawed-Off Shotgun is shown in the following images:





10. I have spoken to Special Agent Howard Stern of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (the "ATF") regarding this matter and the defendant BRIAN DOWNEY. ATF has no record of authorization for the defendant BRIAN DOWNEY to own the Short-Barrel Rifle or the Sawed-Off Shotgun.

11. During the execution of the search warrant at the DOWNEY residence, BRIAN DOWNEY, the defendant, agreed to speak with law enforcement agents. He stated that he lacked any registration or authorization for controlled firearms, such as the Short-Barrel Rifle or the Sawed-Off Shotgun. He further

stated that he put the short barrel on the Short-Barrel Rifle, indicating his belief that he was allowed to do so because he was a peace officer. He further stated that he understood that short-barreled rifles cannot be legally possessed without specific authorization.

12. During the execution of the search warrant at the DOWNEY residence, I observed a small square lock box with both a key and combination face. I asked BRIAN DOWNEY, the defendant, for the combination for the lock box, and DOWNEY stated that he did not have the combination.

13. I opened the lock box to search for items pursuant to the search warrant. Inside the lock box, I located numerous federal badges and credentials, namely the following: a Drug Enforcement Administration ("DEA") metallic badge and badge holder, a United States Marshals metallic badge and badge holder three Federal Bureau of Investigation ("FBI") metallic badges and badge holders, two loose FBI metallic badges, an FBI badge in an embossed case with FBI initials and a Department of Justice ("DOJ") logo, two FBI badges in a credential case with credentials bearing an individual's name, three complete FBI credential sets, including badge and two-part identification cards, bearing the name of the defendant BRIAN DOWNEY and his photo, an FBI credential case, including a badge and single-part identification card bearing the name and photo of the defendant BRIAN DOWNEY, an FBI credential case bearing a single-part FBI identification card with the name and photo of the defendant BRIAN DOWNEY and imprinted with the DOJ Bureau of Prisons ("BOP") seal, an empty credential case stamped with the DOJ seal, a loose FBI Special Agent identification card with the photo and signature of the defendant BRIAN DOWNEY, and four FBI patches, that could be sewn on to a uniform or chest. Also located within the lock box were DOWNEY's United States passport book, United States passport card, and his New York state commercial driver's license. Some of these federal credentials are shown in the following image:



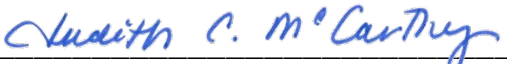
14. Based on my conversations with other law enforcement officers and my experience in law enforcement, I know that the badges, identification cards, and other insignia recovered from the lock box are not authentic and not issued under the proper authority.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of BRIAN DOWNEY, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

/s/ Daniel Suden by JCM with permission

DANIEL SUDEN
Special Agent
U.S. Department of Homeland Security
Homeland Security Investigations

Sworn to me through the transmission of this
Complaint by reliable electronic means, pursuant to
Federal Rule of Criminal Procedure 4.1, this
2nd day of September, 2021


THE HONORABLE JUDITH C. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK